

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3696 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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YUNUS SULEMAN VORA

Versus

DIVISIONAL CONTROLLER

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Appearance:

MR HK RATHOD for Petitioner

MR HS MUNSHAW for respondent

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 18/01/99

ORAL JUDGEMENT

The petitioner was working as a Driver with the respondent Corporation for a period of about four years. On 23rd July 1981 while the petitioner was driving the Bus of the Corporation, near Pratapnagar Railway Station, he committed an accident, resulting into the death of a cyclist. With regard to this accident, the petitioner was criminally prosecuted, but it appears from the contents of para 15 of the award that the witnesses did

not turn up despite the issuance of summons and warrants repeatedly and therefore, the petitioner was acquitted from the offence under Sections 279 and 304-A of the Indian Penal Code and Sections 116 and 112 of the Motor Vehicles Act. However, the fact remains that the Corporation held an inquiry against the petitioner and as a result of this inquiry, the Corporation passed an order dismissing the petitioner from the services on 21st November 1981. Against this dismissal order dated 21st November 1981, the petitioner raised an industrial dispute. The reference was made and this reference (LCB) No. 979 of 1988 was rejected by the Labour Court No.2, Vadodara, on 16th December 1991. Aggrieved from this order dated 16th December 1991, the present Special Civil Application has been filed by the petitioner.

2. The Labour Court has passed a detailed order considering the circumstances in which the accident occurred while the petitioner was driving the Bus of the Corporation and in para 24, the Labour Court has also considered as to whether it was a case for reduction of punishment in exercise of powers under Section 11-A of the Industrial Disputes Act. The learned Counsel has argued that it was the first accident by the petitioner and no witnesses had been examined except the reporter and that he has been acquitted in the criminal case.

3. So far as the criminal case is concerned, it is clear that the witnesses did not turn up despite the issuance of summons and warrants and therefore, the criminal case resulted in his acquittal. May be that the petitioner has not been found to be criminally liable for want of evidence, the fact cannot be lost sight of that it was an accident in which a cyclist had lost his life. It also appears from the circumstances of this case that there was a standing tanker near the Railway level crossing and while the cyclist had already taken the position to take over the standing tanker, the petitioner, as a driver of the Transport Corporation's Bus, also tried to take over the standing tanker during the day hours when there was considerable traffic and while the cyclist was to approach and take over the standing tanker because of the vehicle driven by the petitioner came closer and hit the rear wheels of the vehicle and ultimately died. There are no such mitigating circumstances in this case so as to take a lenient view to reduce the punishment of dismissal and to interfere with the view taken by the Labour Court. The Labour Court has discussed this aspect of the matter in paras 24 and 25 of the award. This Court does not find any ground or any error of fact or law in the award

passed by the Labour Court so as to warrant any interference by this Court.

4. Accordingly, this Special Civil Application fails and the same is hereby dismissed. The Rule is hereby discharged. No order as to costs.

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